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09400HB0551ham002

LRB094 06728 RSP 42005 a

1 AMENDMENT TO HOUSE BILL 551

2 AMENDMENT NO. _____. Amend House Bill 551 as follows:

3 on page 1, line 5, by replacing "and 21-25", with "21-25, and
4 21-310"; and

5 on page 2, line 5, after "clerk", by inserting "and the county
6 collector"; and

7 on page 4, line 5, after "clerk", by inserting "and the county
8 collector"; and

9 on page 5, line 18, after "clerk", by inserting "and the county
10 collector"; and

11 on page 5, immediately after line 21, by inserting the
12 following:

13 "(35 ILCS 200/21-310)

14 Sec. 21-310. Sales in error.

15 (a) When, upon application of the county collector, the
16 owner of the certificate of purchase, or a municipality which
17 owns or has owned the property ordered sold, it appears to the
18 satisfaction of the court which ordered the property sold that
19 any of the following subsections are applicable, the court
20 shall declare the sale to be a sale in error:

1 (1) the property was not subject to taxation, or all or
2 any part of the lien of taxes sold has become null and void
3 pursuant to Section 21-95 or unenforceable pursuant to
4 subsection (c) of Section 18-250 or subsection (b) of
5 Section 22-40,

6 (2) the taxes or special assessments had been paid
7 prior to the sale of the property,

8 (3) there is a double assessment,

9 (4) the description is void for uncertainty,

10 (5) the assessor, chief county assessment officer,
11 board of review, board of appeals, or other county official
12 has made an error (other than an error of judgment as to
13 the value of any property),

14 (5.5) the owner of the homestead property had tendered
15 timely and full payment to the county collector that the
16 owner reasonably believed was due and owing on the
17 homestead property, and the county collector did not apply
18 the payment to the homestead property; provided that this
19 provision applies only to homeowners, not their agents or
20 third-party payors,

21 (6) prior to the tax sale a voluntary or involuntary
22 petition has been filed by or against the legal or
23 beneficial owner of the property requesting relief under
24 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, ~~or~~

25 (7) the property is owned by the United States, the
26 State of Illinois, a municipality, or a taxing district, or

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28 (8) the owner of property is a member of the armed
29 forces of the United States who has applied for an
30 extension of his or her due date as provided in Sections
31 21-15, 21-20, and 21-25.

32 (b) When, upon application of the owner of the certificate
33 of purchase only, it appears to the satisfaction of the court
34 which ordered the property sold that any of the following

1 subsections are applicable, the court shall declare the sale to
2 be a sale in error:

3 (1) A voluntary or involuntary petition under the
4 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been
5 filed subsequent to the tax sale and prior to the issuance
6 of the tax deed.

7 (2) The improvements upon the property sold have been
8 substantially destroyed or rendered uninhabitable or
9 otherwise unfit for occupancy subsequent to the tax sale
10 and prior to the issuance of the tax deed.

11 (3) There is an interest held by the United States in
12 the property sold which could not be extinguished by the
13 tax deed.

14 (4) The real property contains a hazardous substance,
15 hazardous waste, or underground storage tank that would
16 require cleanup or other removal under any federal, State,
17 or local law, ordinance, or regulation, only if the tax
18 purchaser purchased the property without actual knowledge
19 of the hazardous substance, hazardous waste, or
20 underground storage tank. This paragraph (4) applies only
21 if the owner of the certificate of purchase has made
22 application for a sale in error at any time before the
23 issuance of a tax deed.

24 (c) When the county collector discovers, within one year
25 after the date of sale if taxes were sold at an annual tax sale
26 or within 180 days after the date of sale if taxes were sold at
27 a scavenger tax sale, that a tax sale should not have occurred
28 for one or more of the reasons set forth in subdivision (a)(1),
29 (a)(2), (a)(6), or (a)(7) of this Section, the county collector
30 shall notify the last known owner of the certificate of
31 purchase by certified and regular mail, or other means
32 reasonably calculated to provide actual notice, that the county
33 collector intends to declare an administrative sale in error
34 and of the reasons therefor, including documentation

1 sufficient to establish the reason why the sale should not have
2 occurred. The owner of the certificate of purchase may object
3 in writing within 28 days after the date of the mailing by the
4 county collector. If an objection is filed, the county
5 collector shall not administratively declare a sale in error,
6 but may apply to the circuit court for a sale in error as
7 provided in subsection (a) of this Section. Thirty days
8 following the receipt of notice by the last known owner of the
9 certificate of purchase, or within a reasonable time
10 thereafter, the county collector shall make a written
11 declaration, based upon clear and convincing evidence, that the
12 taxes were sold in error and shall deliver a copy thereof to
13 the county clerk within 30 days after the date the declaration
14 is made for entry in the tax judgment, sale, redemption, and
15 forfeiture record pursuant to subsection (d) of this Section.
16 The county collector shall promptly notify the last known owner
17 of the certificate of purchase of the declaration by regular
18 mail and shall promptly pay the amount of the tax sale,
19 together with interest and costs as provided in Section 21-315,
20 upon surrender of the original certificate of purchase.

21 (d) If a sale is declared to be a sale in error, the county
22 clerk shall make entry in the tax judgment, sale, redemption
23 and forfeiture record, that the property was erroneously sold,
24 and the county collector shall, on demand of the owner of the
25 certificate of purchase, refund the amount paid, pay any
26 interest and costs as may be ordered under Sections 21-315
27 through 21-335, and cancel the certificate so far as it relates
28 to the property. The county collector shall deduct from the
29 accounts of the appropriate taxing bodies their pro rata
30 amounts paid.

31 (Source: P.A. 91-177, eff. 1-1-00; 91-357, eff. 7-29-99;
32 91-924, eff. 1-1-01; 92-224, eff. 1-1-02; 92-729, eff.
33 7-25-02.)".